

PATRICK SUDELL, )  
Register No. 1019076, )  
) )  
Plaintiff, )  
) )  
v. ) No. 04-4116-CV-C-NKL  
) )  
SAMANTHA DRY, et al., )  
) )  
Defendants. )

Plaintiff, while confined in a Missouri penal institution, commenced this action under the Civil Rights Act of 1871, 42 U.S.C. § 1983, alleging a violation of his federally protected rights. This case was referred to the undersigned United States Magistrate Judge for processing in accord with the Magistrate Act, 28 U.S.C. § 636, and L.R. 72.1.

On December 19, 2005, defendants filed a motion for sanctions, citing plaintiff's failure to appear for his depositions on September 23 and November 22, 2005, and his failure to provide defendants with a current mailing address.

A review of the record in this cause reveals that plaintiff was released from prison in April 2005, and has not taken any affirmative steps to advance his claims since April 22, 2005. On November 18, 2005, plaintiff's mail was returned to the court as undeliverable. Moreover, plaintiff has not complied with the orders of this court granting defendants leave to depose him.

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IT IS, THEREFORE, ORDERED that defendants' motion to stay discovery is granted and the deadlines for close of discovery and filing of dispositive motions are stayed until such time as a final order is issued by the District Judge ruling defendants' motion for sanctions [39]. It is further

RECOMMENDED that defendant's motion for sanctions be granted and plaintiff's claims be dismissed for failure to prosecute and to comply with court orders, pursuant to the provisions of Fed. R. Civ. P. 41(b) [38].

Under 28 U.S.C. § 636(b)(1), the parties may make specific written exceptions to this recommendation within twenty days. If additional time is needed, a motion for an extension of time must be filed within twenty days. The motion should state the reasons for the request. *See Nash v. Black*, 781 F.2d 665, 667 (8th Cir. 1986) (citing *Thomas v. Arn*, 474 U.S. 140 (1985)); *Messimer v. Lockhart*, 702 F.2d 729 (8th Cir. 1983). Failure to make specific written exceptions to this report and recommendation may result in a waiver of the right to appeal.

Dated this 22<sup>nd</sup> day of December, 2005, at Jefferson City, Missouri.

/s/ \_\_\_\_\_

WILLIAM A. KNOX  
United States Magistrate Judge